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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,448	04/20/2006	Gerard Adam	Q94513	9834
23373 7590 05/20/2008 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			EXAMINER VENNE, DANIEL V	
			ART UNIT 3617	PAPER NUMBER
			MAIL DATE 05/20/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10595448	4/20/06	ADAM, GERARD	Q94513

EXAMINER

S. Joseph Morano

ART UNIT	PAPER
3617	20080520

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

In response to a telephone call from John Mion, attorney of record, the record reveals that the correspondence address of the instant application was improperly changed by an attorney not of record due to a typographical error in the application number listed on the Change of Address request. As a result the Office action of 5/8/08 was mailed to the incorrect address. The official correspondence address has been changed back to the one set forth in the original declaration. A copy of the Office action dated 5/8/08 is attached to this letter, and the period for response set in that Office action is hereby **RESTARTED** as of the mailing date of this letter. Any questions regarding this communication should be addressed to Supervisory Patent Examiner S. Joseph Morano at (571) 272-6684. Any questions regarding the status of the application or content of the Office action should be addressed to the examiner of record, Daniel Venne, at (571) 272-7947

/S. Joseph Morano/
Supervisory Patent Examiner, Art Unit 3617

Office Action Summary	Application No.	Applicant(s)	
	10/595,448	ADAM, GERARD	
	Examiner	Art Unit	
	DANIEL V. VENNE	3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☒ Claim(s) 1,6-9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/20/2006</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A preliminary amendment was received from applicant on 4/20/2006.
2. Claims 3-8 and 10 are amended.

Claim Objections

3. Claims 1 and 6-9 are objected to because of the following informalities:

Claim 1 recites "sufficient slope", "the slope of each section of descending track" and "the above mentioned slope"; if the same slope limitation is intended for each of these recitations, then the same consistent clear claim language should be used for each. The term "altitude" in line 11 of claim 1 should be replaced with -- elevation -- or -- height --. In as much as "some" is considered an unspecified number or quantity, the phrase "at least on some sections" in claim 6 should be replaced with -- at least on one section -- for clarity purposes. In claim 7, the phrase "the above mentioned volume" should be replaced with "volume of the container" for clarity purposes. In claim 8, the term "it" should be replaced by "the transport system" for clarity purposes. In claim 8, the phrase "the distance" should be replaced with -- a distance --. In claim 9, the phrase "the latter" should be replaced with -- the vehicle --, and the phrase "during its transportation" should be replaced for -- during transport -- for clarity purposes.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claims 1-10 recite (in claim 1 on line 17) the phrase "such as" which renders the claims indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

7. In as much as the phrase is not described or defined in the specification, it is not clear what is meant by "standard overall dimensions" in claim 7.

8. In claim 1, the phrase "balanced by the said resistance to running with other resistances added" is not clear.

9. In claim 5, the phrase "the above mentioned constant speed" lacks antecedent basis in the claim.

10. In claim 7, the phrase "in the idle position of the container" is not clear.

11. In claim 8, the phrase "having the effect of maintaining the distance between the vehicles" is not clear and also lacks clear antecedent basis in the claim.

12. Claim 9 recites the limitation "the potential energies" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

13. In claim 10, the phrase "making use parsimoniously of" is not clear in the claim.

14. In claim 10, the phrases "the relief", "the departure point", "the arrival point", "the route of the transport track", "on the basis of this reading", and "so that it has" are not clear and lack clear antecedent basis in the claim.

Claim Rejections - 35 USC § 102

15. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

16. Claims 1-6 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Rose (US 2593699). Rose discloses a transport system, comprising a transport track [10] formed by at least one running rail (rails) [11, 12], at least one vehicle (trolley) to be transported, and a running device [14] connected to each vehicle and arranged on the rails so as to be able to run thereon, the vehicle provided with the running device having a resistance to running on the rails, the transport track having at least one descending track section [15] having sufficient slope (col. 2, lines 50-53) so that the resistance to running of each vehicle is overcome, each vehicle running on the descending section by gravity; the transport track has a starting point and an arrival point having an altitude (elevation or height) equal to or higher than the starting point, and comprises several sections of descending track (Fig. 5) between which there is a section of ascending track (Fig. 5) on which each vehicle provided with the running device is driven by a driving device (booster conveyor), in that the slope of each section of descending track is insufficient to produce a continuous acceleration of the vehicle on the rails, each vehicle having substantially constant speed, the transport track having a route along which no vehicle at any point is raised higher than the altitude (elevation or height) that

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the vehicle would have at this point on the transport track having a single descending section provided with the slope between the starting point and the arrival point.

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rose (US 2593699). Rose discloses all claimed features as indicated above, with the exception of explicitly comprising means of balancing speed of two successive vehicles, having the effect of maintaining distance between the vehicles. Rose discloses continuous circulation of trolleys by using proper spacing of booster sections and slope in the track (col. 2, lines 28-37). Rose does not specifically indicate balancing speed of successive vehicles; however, it would have been obvious to one of ordinary skill in the art to which the subject matter pertains, to adjust booster sections and slope in the track to effect the continuous transport (by adjusting or balancing trolley speed) of successive multiple trolleys running on the rails as a design choice to create the invention as claimed by applicant. The rationale would have been to predictably provide the expected results and desired effect of balancing (adjusting) trolley speed for maintaining a desired distance between successive trolleys running on the rails in a continuous fashion. Regarding claim 9, Rose discloses at least one endless cable (chain) [16] returned freely in a loop (Fig. 1) by pulleys (sprockets) [17, 18] along the transport track

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and clamps (dogs) [26] arranged on each vehicle to grip the cable (chain) and drive the vehicle (trolley) during transport.

19. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rose (US 2593699). Rose discloses all claimed features as indicated above, with the exception of the slope being at least $3/1000$ or constant over each descending section. Rose discloses continuous circulation of trolleys by using proper spacing of booster sections and slope in the track (col. 2, lines 28-37). Rose does not specifically indicate the slope being at least $3/1000$ or constant over each descending section (although from the figures it does appear that the slope is constant over each descending section). Nevertheless, it would have been obvious to one of ordinary skill in the art to which the subject matter pertains, to make and adjust a straight line or constant slope in the descending track as a matter of engineering design choice to achieve the desired speed and spacing of successive trolleys in the transport system to create the invention as claimed by applicant. The rationale would have been to adjust track slope and booster sections to optimize speed and spacing of trolleys for the transport system.

20. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rose (US 2593699). Rose discloses all claimed features as indicated above, with the exception of the recited constant speed of at least one vehicle on the descending track sections, or the driving devices driving each vehicle on the ascending track sections at a speed equal to the constant speed of the vehicle on the descending track section. Rose discloses continuous circulation of trolleys by using proper spacing of booster sections and slope in the track (col. 2, lines 28-37). Although Rose is silent on a constant speed

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of at least on vehicle on a descending track and silent with respect to the driving devices driving a vehicle on the ascending track at a constant speed equal to the constant speed of a vehicle on a descending track section; it would have been obvious to one of ordinary skill in the art to which the subject matter pertains, to adjust booster sections and gradual slope in the track to provide any desired substantially constant speed or to make the driving devices drive each vehicle on the ascending track sections at a speed equal to the same desired substantially constant speed as a matter of design choice to create the invention as claimed by applicant. The rationale would have been to adjust and optimize speed of successive trolleys in order to achieve a constant and continuous flow of trolleys on descending and ascending track in the transport system.

Conclusion

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel V. Venne whose telephone number is (571) 272-7947. The examiner can normally be reached between 7:30AM - 4:00PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (In USA or CANADA) or 571-272-1000.

/S. Joseph Morano/
Supervisory Patent Examiner, Art Unit 3617

DVV